

STATE OF TEXAS           §  
  §  
COUNTY OF HIDALGO   §

**AGREEMENT  
C-14-087-08-25**

THIS AGREEMENT (the "Agreement") is entered into effective as of **August 25, 2014** by and between **Aim Media Texas Operating LLC dba The Monitor** ("Seller") and **Hidalgo County** ("County").

WHEREAS, on **February 18, 2014**, County authorized and declared Seller a sole source vendor which exempted Seller from competitive procurement procedures to supply County with **“Publications of Statutory Legal Ad’s and/or Notice”** as further described in Exhibit "A" which is attached hereto and incorporated herein by reference for all purposes (the "Services"); and

WHEREAS, Seller has submitted a proposal to supply County’s with the Services; and

WHEREAS, County has determined that Seller has been designated as the sole source to provide County with the Services;

NOW THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. County agrees to purchase from Seller and Seller agrees to sell to County the Services that County may require for **“Publications of Statutory Legal Ad’s and/or Notices”** for publication and circulation in the Hidalgo County area for a period of one (1) year from **August 25, 2014**, as long as the County continues to designate Seller as a sole source exemption.
2. When County determines that it needs a quantity of the Services to be rendered, it will, according to its Purchasing Policies, complete and submit to Seller a Purchase Order describing the type and quantity of the services required. The Services are to be rendered by Seller for publication and circulation throughout Hidalgo County as specified by County in its Purchase Order.
3. County agrees to pay Seller for each Purchase Order based on the prices set out in Exhibit "B". Seller shall render invoices for each Purchase Order, and the invoices shall be paid by County on or before the 30th day following receipt of the invoice.
4. County and Seller agree that either party may terminate this contract upon thirty (30) days written notice at any time for any reason or no reason at all.
5. General Provisions.

a. Conflict with Applicable Law. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

b. No Waiver. No waiver by County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

c. Entire Agreement. This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and Seller, and not otherwise.

d. Texas Law to Apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

e. Notice. Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County: Hidalgo County  
Attention: County Judge  
302 West University Drive  
Edinburg, Texas 78539

**If to Seller:** AIM Media Texas Operating LLC  
d/b/a The Monitor  
P.O. Box 3267  
McAllen, Texas 78502

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

f. Additional Documents. The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

g. Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

h. Assignment. This Agreement shall not be assignable.

i. Headings. The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

j. Gender and Number. All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

k. Authority to Execute. The execution and performance of this Agreement by County and Seller have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of County and Seller in accordance with its terms.

l. Commitment of Current Revenues Only. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon sixty (60) days written notice to Seller. County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903 (Vernon Supp. 1996).

m. Insurance. Company shall provide insurance in force on all its vehicles and all persons connected with providing services under this Contract naming County as an additional insured (with coverages and in the amounts described on Exhibit "C" attached hereto and incorporated herein at this point for all purposes), and shall furnish to County certificates of such insurance coverage.

n. Purchasing Ethics. Seller represents and warrants it has not, during the process of being awarded this contract violated the following ethical standards of County and, upon and after the execution of this Agreement, agrees to abide by the following ethical standards of County:

(1) It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee, of Hidalgo County, or for any elected official, department head or employee or former elected official, department head or employee of Hidalgo County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an officer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor pending before any department or agency of Hidalgo County.

(2) It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Hidalgo County, or any person associated therewith, as an inducement for the award of a subcontract or order.

EXECUTED effective as of the day and year first above written.

**HIDALGO COUNTY**

By: \_\_\_\_\_  
Ramon Garcia, County Judge

ATTEST:

\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

**Vendor: AIM Media Texas Operating  
dba The Monitor**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**C-14-087-08-25**

**“Publications of Statutory Legal Ad’s and/or Notice”**

Aim Media Texas Operating LLC dba The Monitor

APPROVED AS TO FORM:

Office of Criminal District Attorney

Rene Guerra

By: \_\_\_\_\_

Michael L. Garza,

Assistant District Attorney

**APPROVED BY COMMISSIONERS COURT:** \_\_\_\_\_

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**EXHIBIT “A”**  
**EXEMPT FOR SERVICES**

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EXHIBIT "A"  
HIDALGO COUNTY  
"Publications of Statutory Legal Ad's and/or Notices"

**General Scope:**

Hidalgo County is seeking to enter into a contract with a publisher as defined as "a newspaper of General Circulation" that require publication such as (i.e. Elected Offices, Departments, Agencies, & Programs etc.) of "Statutory Legal Ads and/or Notices".

**SPECIFICATIONS:**

Hidalgo County Commissioner's Court took action on February 18, 2014 and approved the definition "of a newspaper general circulation" as:

Pursuant to AG-Opinion JC-0223, discussion and action for HCCC to define the term "newspaper of general circulation" as contained in the Texas Government Code statute 2051.044 more specifically to mean:	Yes	No
a. A newspaper that reaches all areas of Hidalgo County?	×	
b. A newspaper that publishes everyday so as to accommodate publication of Public Hearings (as statutes require CC) to encourage public involvement and also meet deadlines such as 14 days prior to said public hearings?	×	
c. A newspaper that publishes on weekends to attempt to reach as many readers/residents/vendors/etc. to comply with statutory obligation to encourage competition in the procurement process. This requirement will also resolve those individuals that do not have internet or television exposure;	×	
d. A newspaper that has web-page access on a continuous basis;	×	

**ADDITIONAL SPECIFICATIONS/REQUIREMENTS**

1. devote not less than 40 % advertising and 60 % editorial general interest items:
2. be published at least five days each week plus weekends;
3. have been published regularly and continuously for at least 12 months before award for this contract, and continue to be published regularly and continuously for the duration of this agreement, including any extensions or renewals;
4. be published in the County of Hidalgo Area
5. Have online access for both Hidalgo County and Vendors
6. Advertisement and/or notice may be submitted by any County department/office. The County department/office will be responsible for preparing the ad copy. Instructions for section placement, type size, run dates and any other details will be determined by the ordering department/office.
7. The newspaper will be responsible for billing each department/office separately for each advertisement and/or notice ordered.
8. The newspaper is required to provide an "affidavit of publication" at no extra charge for each advertisement and/or notice when billed.

EXHIBIT "A"  
HIDALGO COUNTY  
"Publications of Statutory Legal Ad's and/or Notices"

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9. Advertisements or notices which are incorrect or incomplete due to vendor error will be republished in their entirety at no charge to the County, or if they are no longer needed, the original will not be paid.
10. This Agreement does not guarantee any volume of business.
11. Newspapers must contain a dedicated classified advertisement Section. Legal notices must be published in the classified advertising section of the newspaper. The rate for publication of a legal notice shall not exceed the newspaper's lowest published rate for classified advertising.

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**EXHIBIT “B”**  
**PUBLICATION FEES**

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EXHIBIT "B"  
 2014-087  
 HIDALGO COUNTY  
 "Publications of Statutory Legal Ad's and/or Notices"

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*Internal Purposes only: Commodity Code: 915-02*

<b>Statutory Legal Ads Only</b>	AIM Media Texas The Monitor 1400 E. Nolana Loop McAllen, TX 78504														
Price per column/inch weekly basis	\$ 12.46														
Price per column/inch Sunday	\$ 15.42														
Online Posting	\$ \$30 to post legals per insertion and a \$10 one time charge for email blast regardless of number of insertions,														
Please check off the days of the week the paper is Published	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><b>S</b></td> <td style="text-align: center;"><b>M</b></td> <td style="text-align: center;"><b>T</b></td> <td style="text-align: center;"><b>W</b></td> <td style="text-align: center;"><b>T</b></td> <td style="text-align: center;"><b>F</b></td> <td style="text-align: center;"><b>S</b></td> </tr> <tr> <td style="text-align: center;">x</td> <td style="text-align: center;">x</td> <td style="text-align: center;">x</td> <td style="text-align: center;">x</td> <td style="text-align: center;">x</td> <td style="text-align: center;">x</td> <td style="text-align: center;">x</td> </tr> </table>	<b>S</b>	<b>M</b>	<b>T</b>	<b>W</b>	<b>T</b>	<b>F</b>	<b>S</b>	x	x	x	x	x	x	x
	<b>S</b>	<b>M</b>	<b>T</b>	<b>W</b>	<b>T</b>	<b>F</b>	<b>S</b>								
x	x	x	x	x	x	x									

**EXHIBIT “C”**  
**CERTIFICATE OF INSURANCE**



Zimbra

evangelina.garcia@co.hidalgo.tx.us

**RE: CONTRACT #C-14-087-08-26-THE MONITOR For "PUBLICATIONS of STATUTORY LEGAL AD'S and/or NOTICE" PROJECT**

**From :** Michael Garza <michael.garza@da.co.hidalgo.tx.us>

Tue, Aug 12, 2014 03:01 PM

**Subject :** RE: CONTRACT #C-14-087-08-26-THE MONITOR For "PUBLICATIONS of STATUTORY LEGAL AD'S and/or NOTICE" PROJECT

**To :** 'Evangelina Garcia' <evangelina.garcia@co.hidalgo.tx.us>

**Cc :** josephine ramirez <josephine.ramirez@da.co.hidalgo.tx.us>

**Reply To :** michael garza <michael.garza@da.co.hidalgo.tx.us>

The above referenced contract is approved as to form.

Please contact me should you have any questions or concerns.

**Michael Garza**

*Assistant Criminal District Attorney*  
County Affairs Section  
Office of Criminal District Attorney  
Hidalgo County, Texas  
100 N Closner Rm 303  
Edinburg, TX 78539  
(956) 318-2313 ext. 3824  
(956) 318-2079 FAX  
[michael.garza@da.co.hidalgo.tx.us](mailto:michael.garza@da.co.hidalgo.tx.us)

\*\*\*\*\*  
The information contained in this e-mail may be 1.SUBJECT TO THE ATTORNEY-CLIENT PRIVILEGE;  
2.ATTORNEY WORK PRODUCT; and/or 3.CONFIDENTIAL. It is intended only for the individual or entity  
designated above. Any distribution, copying, or use of or reliance upon the information contained in this e-mail by  
or to anyone other than the recipient designated above by the sender is unauthorized and strictly prohibited. IF  
YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE ADVISE THE SENDER BY REPLY E-MAIL TO  
[michael.garza@da.co.hidalgo.tx.us](mailto:michael.garza@da.co.hidalgo.tx.us) AND DELETE THE COMMUNICATION.  
\*\*\*\*\*

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**From:** Evangelina Garcia [mailto:evangelina.garcia@co.hidalgo.tx.us]  
**Sent:** Friday, August 08, 2014 12:16 PM  
**To:** michael garza  
**Subject:** CONTRACT #C-14-087-08-26-THE MONITOR For "PUBLICATIONS of STATUTORY LEGAL AD'S and/or NOTICE" PROJECT

Hon. Michael:  
Attached for your review as to form for your approval is the contract with "The Monitor"  
which is the other project. This one was exempt and sole sourced for the "Publications of  
Statutory Legal Ad's and/or Notice" project so as to proceed with an agenda item.

Thank you;

**February 18, 2014**

**SPECIAL MEETING - February 18, 2014**

**BE IT REMEMBERED**, that on this 18th day of February A.D., 2014, there was begun and held a **SPECIAL MEETING** of the Honorable Commissioners' Court of Hidalgo County, Texas, wherein the following members thereof were present, to-wit:

<b>HONORABLE RAMON GARCIA</b>	<b>HIDALGO COUNTY JUDGE</b>
<b>HONORABLE A.C. CUELLAR, JR.</b>	<b>COMMISSIONER, PRECINCT NO. 1</b>
<b>HONORABLE JOE M. FLORES</b>	<b>COMMISSIONER, PRECINCT NO. 3</b>
<b>HONORABLE JOSEPH PALACIOS</b>	<b>COMMISSIONER, PRECINCT NO. 4</b>

and **ARTURO GUAJARDO, JR.**, COUNTY CLERK & EX-OFFICIO CLERK OF THE COMMISSIONERS' COURT of Hidalgo County, Texas, wherein the following proceedings were had, to-wit:

February 18, 2014

1. **AI-43158** Pct. #1 R&B (1200):  
Approval of 2014 appropriation of funds into Precinct No.1 Road Maintenance (program 005) in the amount of \$35,935.43.

On motion by COMMISSIONER PCT. 4, JOSEPH PALACIOS, seconded by COMMISSIONER PCT. 1, A.C. CUELLAR, JR. , the Court made a UNANIMOUS vote of approval.

**Vote:** 3 - 0 - Unanimously

17.

**Purchasing Department - Marty Salazar:**

**Notes:**

**A. FOR ANY CONTRACT(S) AWARDED AND APPROVED UNDER THIS AGENDA, EXECUTED COPIES OF THE CONTRACT(S) WILL BE AVAILABLE ON THE COUNTY INTRA-NET WEBSITE AND WILL BE FOWARDED VIA E-MAIL, FAX OR HAND DELIVERED TO HIDALGO COUNTY AUDITOR'S OFFICE.**

**B. ANY AND ALL REQUESTS FOR PAYMENT(S) APPROVED WILL BE SUBJECT TO COUNTY AUDITORS PROCESSING PROCEDURES INCLUDING AUTHORITY FOR COUNTY TREASURER TO ISSUE PAYMENT(S)/CHECK(S).**

A.

**Hidalgo County**

1. **AI-42939** Requesting authority to publish an RFQ/P for a consultant for the procurement and purchase of electric energy provider for Hidalgo County when current agreement (through GLO's awarded provider, Reliant Energy) expires in 2015 with approval of procurement packet drafted by Purchasing (sent to V. Guerra/S. Cruz/J. Longoria for review and comment).

On motion by COMMISSIONER PCT. 1, A.C. CUELLAR, JR., seconded by COMMISSIONER PCT. 4, JOSEPH PALACIOS , the Court made a UNANIMOUS vote of approval.

**Vote:** 3 - 0 - Unanimously

Commissioner Joe Flores joined the meeting.

2. **AI-43156** Appointment and/or designation by Commissioner's Court to select/assign an evaluation committee to evaluate and score the request for proposals received for the RFP No.: 2014-028-02-12-CGA-Placement, Housing, Detention and Supervision of Hidalgo County Inmates".

The appointed persons will be Valde Guerra, Executive Officer, Sergio Cruz, Budget Officer, and members of the Sheriff's department and will be supervised by the Purchasing department.

On motion by COMMISSIONER PCT. 4, JOSEPH PALACIOS, seconded by COMMISSIONER PCT. 3, JOE M. FLORES, the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

3. **AI-42940** Options for the procurement of publishing statutory and non-statutory advertisements:

A. Pursuant to AG-Opinion JC-0223, discussion and action for HCCC to define the term "newspaper of general circulation" as contained in the Texas Government Code statute 2051.044 more specifically to mean:

- a. A newspaper that reaches all areas of Hidalgo County? **YES X ; NO \_\_\_**  
b. A newspaper that publishes everyday so as to accommodate publication of Public Hearings (as statutes require CC) to encourage public involvement and also meet deadlines such as 14 days prior to said public hearings? **YES X ; NO \_\_\_**  
c. A newspaper that publishes on weekends to attempt to reach as many readers/residents/vendors/etc. to comply with statutory obligation to encourage competition in the procurement process. This requirement will also resolve those individuals that do not have internet or television exposure? **YES X ; NO \_\_\_**  
d. A newspaper that has web-page access on a continuous basis; **YES X ; NO \_\_\_**

On motion by COMMISSIONER PCT. 3, JOE M. FLORES, seconded by COMMISSIONER PCT. 4, JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval on Items (a) - (d).

**Vote:** 4 - 0 - Unanimously

B. If Item A approved as to definition of a "newspaper of general circulation", requesting exemption from competitive bidding requirements under Texas Local Government Code, Chapter/Section

262.024(a)(7), "an item that can be obtained from only one source" as various/numerous State/Local Statutes, Administrative, Election, Family, Tax Codes, Etc. (i.e. Tx. Gov't. Code 2051, Tx. Local Gov't. Code 262.055, Tx. Admin. Code. etc.) and all Other Applicable Laws that dictate publication in a newspaper;

On motion by COMMISSIONER PCT. 4, JOSEPH PALACIOS, seconded by COMMISSIONER PCT. 3, JOE M. FLORES, the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

C. Requesting a "Sole Source Declaration" for The Monitor for the publication of statutory ads and/or notices qualifying under HCCC definition as a "newspaper of general circulation" and assigned NIGP commodity code #915-02;

On motion by COMMISSIONER PCT. 4, JOSEPH PALACIOS, seconded by COMMISSIONER PCT. 1, A.C. CUELLAR, JR., the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

D. Authority to purchase ad and/or notice space from The Monitor (through the requisition and Purchase Order established protocol) for as long as The Monitor continues as said Sole Source Provider;

On motion by COMMISSIONER PCT. 3, JOE M. FLORES, seconded by COMMISSIONER PCT. 1, A.C. CUELLAR, JR., the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

E. Authority to solicit sealed quotes (on a 12 month basis as it appears that the \$50K threshold will not be exceeded for NIGP commodity code 915-71-Advertising) for the publication of all non-statutory newspaper ads or notices for Hidalgo County in a newspaper that qualifies under Tx. Gov't. Code 2051.044 (& not containing HCCC definition) with Purchasing to develop and draft specifications.

On motion by COMMISSIONER PCT. 4, JOSEPH PALACIOS, seconded by COMMISSIONER PCT. 3, JOE M. FLORES, the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

Mrs. Marty Salazar stated as a point of information that they will meet with The Monitor to negotiate a better rate.

4. **AI-43155** A. Requesting exemption from competitive procurement requirements under Tx Local Gov't Code, Ch/Sect, 262.024(a)(4), a professional service;

On motion by COMMISSIONER PCT. 4, JOSEPH PALACIOS, seconded by COMMISSIONER PCT. 1, A.C. CUELLAR, JR., the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

B. Acceptance and approval of a letter of engagement with the Espinoza Law Firm for the provision of legal services for the Hidalgo County Civil Service Commission with a term of two (2) years with Hidalgo County's sole option to renew/extend for an additional two (2), one (1) year terms under the same rates, terms and conditions.

On motion by COMMISSIONER PCT. 3, JOE M. FLORES, seconded by COMMISSIONER PCT. 4, JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

At this time, Commissioner Joe Flores stepped away from the meeting.

**B. Pct. #2**

1. **AI-42987** Consideration and approval of Interlocal Cooperation Agreement between Hidalgo County and Hidalgo County Drainage District No.1 for the purchase and authorized transfer and inclusion of an asset, an Excavator (2004 Volvo EC 330 Short Boom Excavator) to Hidalgo County Precinct No.2 inventory in the amount of \$47,996.80.

**APPROVED**

AI-42940

Purchasing Department 17. A. 3.

CC REGULAR

Meeting Date: 02/18/2014

Submitted For: Martha L. Salazar

Submitted By: Marty Salazar, PURCHASING DEPT.

Department: PURCHASING DEPT.

Information

CAPTION

Options for the procurement of publishing statutory and non-statutory advertisements:

A. Pursuant to AG-Opinion JC-0223, discussion and action for HCCC to define the term "newspaper of general circulation" as contained in the Texas Government Code statute 2051.044 more specifically to mean:

- a. A newspaper that reaches all areas of Hidalgo County? YES  ; NO
- b. A newspaper that publishes everyday so as to accommodate publication of Public Hearings (as statutes require CC) to encourage public involvement and also meet deadlines such as 14 days prior to said public hearings? YES  ; NO
- c. A newspaper that publishes on weekends to attempt to reach as many readers/residents/vendors/etc. to comply with statutory obligation to encourage competition in the procurement process. This requirement will also resolve those individuals that do not have internet or television exposure; YES  ; NO
- d. A newspaper that has web-page access on a continuous basis; YES  ; NO

B. If Item A approved as to definition of a "newspaper of general circulation", requesting exemption from competitive bidding requirements under Texas Local Government Code, Chapter/Section 262.024(a)(7), "an item that can be obtained from only one source" as various/numerous State/Local Statutes, Administrative, Election, Family, Tax Codes, Etc. (i.e. Tx. Gov't. Code 2051, Tx. Local Gov't. Code 262.055, Tx. Admin. Code. etc.) and all Other Applicable Laws that dictate publication in a newspaper;

C. Requesting a "Sole Source Declaration" for The Monitor for the publication of statutory ads and/or notices qualifying under HCCC definition as a "newspaper of general circulation" and assigned NIGP commodity code #915-02;

D. Authority to purchase ad and/or notice space from The Monitor (through the requisition and Purchase Order established protocol) for as long as The Monitor continues as said Sole Source Provider;

E. Authority to solicit sealed quotes (on a 12 month basis as it appears that the \$50K threshold will not be exceeded for NIGP commodity code 915-71-Advertising) for the publication of all non-statutory newspaper ads or notices for Hidalgo County in a newspaper that qualifies under Tx. Gov't. Code 2051.044 (& not containing HCCC definition) with Purchasing to develop and draft specifications.

BACKGROUND

Fiscal Impact

FISCAL YEAR:  
FUNDS AVAILABLE Y/N?:

ACCT. #:  
MATCHING FUNDS Y/N?:



Hidalgo County Purchasing Department  
2812 S. Business Highway 281  
New Administration Building  
Edinburg, Texas 78539  
(956) 318-2626/ Fax: (956) 318-2629

## MEMORANDUM SOLE SOURCE DECLARATION

### “ORDER”

To: Hidalgo County Commissioners Court  
From: Martha L. Salazar, CPPB  
Hidalgo County Purchasing Agent *mls*  
Date: February 18, 2014  
Re: “Sole Source Declaration” - The Monitor

Hidalgo County through statutes/codes and/or other legal obligations require the publication of procurement solicitation ads as well as assorted/numerous legal administrative notices.

These solicitations and/or notices require that the newspaper comply with Texas Government Code 2051.044 and/or Texas Local Government Code 262.025 including, but not limited to, the following:

- a. comply with the definition approved by HCCC of newspaper of “general circulation”;
- b. have a county-wide circulation/coverage;
- c. publish daily;
- d. been in continuous circulation at least 12 months...;
- e. devote not less that 25% of total column lineage to general interest items; and,
- f. entered as second-class postal matter in the county published;
- g. have an accessible web-page.

The Monitor complies with the requirements described herein and further is the only/sole newspaper in the County to do so.

Therefore, Hidalgo County must published all statutory/code/administrative solicitations and/or notices in The Monitor, the Sole qualifying provider.

This declaration remains in effect unless otherwise revoke by Hidalgo County Commissioners Court.

Tex. Atty. Gen. Op. JC-0223 (Tex.A.G.), 2000 WL 659125

Office of the Attorney General

State of Texas  
Opinion No. JC-0223  
May 22, 2000

\*1 Re: What constitutes a "newspaper of general circulation" for the purpose of publishing legal notices, and related questions (RQ-0160-JC)

The Honorable Ben W. "Bud" Childers  
Fort Bend County Attorney  
301 Jackson, Suite 621  
Richmond, Texas 77469-3108

Dear Mr. Childers:

Numerous statutes require a governmental entity to publish notice of an upcoming event or a proposed action in a "newspaper of general circulation." See, e.g., Tex. Gov't Code Ann. § 2007.042(a) (Vernon 2000) (requiring political subdivision that proposes to affect private real-property rights to publish notice); Tex. Loc. Gov't Code Ann. § 272.001(a) (Vernon Supp. 2000) (requiring political subdivision to publish offer of land owned by subdivision for sale); Tex. Water Code Ann. § 11.175(b) (Vernon Supp. 2000) (requiring Texas Natural Resource Conservation Commission to publish notice of hearing to cancel water-appropriation permit). You ask generally how the phrase "a newspaper of general circulation" is defined with reference to notices a governmental entity, including a county, is required to publish. See Letter from Honorable Ben W. "Bud" Childers, Fort Bend County Attorney, to Honorable John Cornyn, Attorney General of Texas (Dec. 13, 1999) (on file with Opinion Committee) [hereinafter "Request Letter"]. You specifically ask seven questions:

1. What constitutes a "newspaper of general circulation" as that phrase is used in the requirements for publication of legal notices?
2. Is there an objective standard to determine whether a newspaper is one of general circulation in a given county?
3. In a county with a population of approximately 325,000, is a weekly newspaper that meets the requirements of Texas Government Code § 2051.044 and that has a subscriber base of approximately 200, a newspaper of general circulation?
4. In determining whether to award the contract for publication of legal notices to Newspaper "A," is it permissible to consider the circulation numbers of Newspaper "B," even though Newspaper "B" would not in and of itself qualify for the award of the contract (because Newspaper "B" is not entered as a Periodicals postal matter in Fort Bend County, Texas)?
5. Is it permissible for Commissioners Court to set the minimum number of subscribers a newspaper must have in the bid specifications?
6. Is it permissible for Commissioners Court to base its lowest and best bid criteria on the cost per unit or subscriber rather than the price per column inch?
7. Since there are both special and general statutes, each requiring a different standard for publication, may Commissioners Court require that the newspaper be one of general circulation when it determines its bid specifications?

\*2 Request Letter, *supra*, at 2.

We conclude generally that a newspaper of general circulation is a newspaper that has more than a de minimis number of subscribers within a specific geographic region, has a diverse subscribership, and publishes some items of general interest to the community. We also conclude that a county commissioners court generally may specify, in a request for bids, the minimum number of subscribers a newspaper bidding on a contract to publish county notices must have if the specification relates to the quality of the goods or services the county desires to purchase. And we conclude that a county must "base its lowest and best bid criteria" on the newspaper's lowest published rate for classified advertising.

The Fort Bend County Purchasing Department recently solicited bids for a term contract for newspaper publication of legal notices in Fort Bend County. See Request Letter, *supra*, at 1. In response, the county has received a bid from a newspaper with paid subscribers that has a sister publication, produced by the same publisher, that is distributed free of charge:

One of the bidding newspapers (Newspaper "A") is a local weekly newspaper that has a circulation of approximately 200 paid and/or requested mail subscriptions. Slightly less than half of these 200 subscriptions are paid/requested outside-county mail subscriptions with the remainder being paid in-county subscriptions. Newspaper "A" devotes more than 25 percent of its total column lineage to general interest items and has been published regularly and continuously at least once each week for a number of years. Additionally, Newspaper "A" is entered as a second-class postal matter (or "Periodicals" as the U.S. Postal Service now refers to it) in Fort Bend County, Texas.

The publisher of Newspaper "A" also publishes another weekly newspaper (Newspaper "B"). Newspaper "B" is a local weekly that has a press run of approximately 56,000 newspapers and is distributed free to homes and businesses in Fort Bend County. Like Newspaper "A", Newspaper "B" devotes more than 25 percent of its total column lineage to general interest items and has been published regularly and continuously at least once each week for a number of years. However, Newspaper "B" is not entered as a Periodicals postal matter in Fort Bend County, Texas.

It has been proposed that, if the contract for publication of legal notices is awarded to Newspaper "A", then Newspaper "B" will also print the legal notices in its newspaper at no additional charge to the county. Newspaper "B" cannot in and of itself be awarded the contract since it is not entered as a Periodicals postal matter and as such does not meet the requirements of Texas Government Code § 2051.044.

Request Letter, *supra*, at 1-2.

You first ask what constitutes a newspaper of general circulation for the purpose of numerous statutes that require a governmental entity, including a county, to publish notice of a public hearing, a request for proposals, or other announcement in "a newspaper of general circulation." See Request Letter, *supra*, at 2. For example, neither a county nor a municipality may issue bonds that are to be paid from ad valorem tax revenues unless the issuance has been approved in an election following the publication of notice in a newspaper of general circulation "published in the county or municipality holding the election." *Tex. Gov't Code Ann.* § 1251.003(d)(2) (Vernon 2000); see also *Tex. Elec. Code Ann.* § 4.003(a)(1)(B) (Vernon Supp. 2000). And a county generally may not sell or exchange its real property unless it has notified the general public of the offer of the land for sale or exchange, "published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county." See *Tex. Loc. Gov't Code Ann.* § 272.001(a) (Vernon Supp. 2000); see also, e.g., *Tex. Alco. Bev. Code Ann.* § 11.392(b) (Vernon Supp. 2000) (requiring applicant for a private club permit renewal to publish notice of renewal application in "newspaper of general circulation"); *Tex. Loc. Gov't Code Ann.* § 54.035(b) (Vernon 1999) (requiring municipal building and standards commission to publish notice of proceedings before commission in "newspaper of general circulation" in municipality); *Tex. Transp. Code Ann.* § 314.022(d) (Vernon 1999) (requiring municipal condemnation commission to publish notice of condemnation hearing "in a newspaper of general circulation in the county in which the property is located").

\*3 As commonly defined, see *Tex. Gov't Code Ann.* § 311.011 (Vernon 1998) (directing that statutory words and phrases generally should be construed consistently with common usage or accepted meaning), the phrase "newspaper of general

circulation” describes a newspaper that has more than a de minimis number of subscribers, has a diverse audience, and contains some news of general interest to the community. See generally 66 C.J.S. Newspapers § 4 (1998). After studying the decisions available to it, the Iowa Supreme Court, in a case cited by a Texas court of appeals, devised two criteria for considering whether a newspaper is one of “general circulation”: “First, . . . a newspaper of general circulation is not determined by the number of its subscribers, but by the diversity of its subscribers. Second, . . . even though a newspaper is of particular interest to a particular class of persons, yet, if it contains news of a general character and interest to the community, although the news may be limited in amount, it qualifies as a newspaper of ‘general circulation.’” *Burak v. Ditson*, 229 N.W. 227, 228 (Iowa 1930) (cited in *City of Corpus Christi v. Jones*, 144 S.W.2d 388, 393 (Tex. Civ. App.-San Antonio 1940, writ dismissed judgment cor.)). The Supreme Court of North Carolina examined cases from several jurisdictions and devised a similar four-pronged test:

First, it must have a content that appeals to the public generally. Second, it must have more than a de minimis number of actual paid subscribers in the taxing unit. Third, its paid subscriber distribution must not be entirely limited geographically to one community, or section, of the taxing unit. Fourth, it must be available to anyone in the taxing unit who wishes to subscribe to it.

*Great S. Media, Inc. v. McDowell County*, 284 S.E.2d 457, 467 (N.C. 1981); see Ala. Att’y Gen. Op. No. 28 (1997), 1997 WL 1054022, \* 1 (discussing Great Southern Media’s four-pronged test). Thus, a newspaper of general circulation “circulates among all classes and is not confined to a particular class or calling in the community” and includes some general-interest items, so that the newspaper is one upon which the general public will rely “to be informed of the news and intelligence of the day, editorial opinion, and advertisements.” 66 C.J.S. Newspapers § 4, at 19-20 (1998).

We believe a Texas court would analyze the issue using criteria similar to those adopted in the Iowa and North Carolina cases. First, more than a de minimis number of subscribers within the bounds of a certain geographic region, see *Great S. Media, Inc.*, 284 S.E.2d at 467, is necessary to serve the common-sense purpose of notifying people within the region. See Dale R. Agthe, Annotation, What Constitutes Newspaper of “General Circulation” Within Meaning of State Statutes Requiring Publication of Official Notices and the Like in Such Newspaper, 24 A.L.R. 4th 825 (1983) (stating that “primary purpose of the printing of legal notices is to give the widest publicity practicable”). Second, the Court of Civil Appeals has underlined the importance of the diversity of a newspaper’s readership: it determined that a daily paper in the City of Dallas with a circulation of about 1,000 “in the different walks of life” was a newspaper of general circulation. *Robinson v. State*, 143 S.W.2d 629, 633 (Tex. Civ. App.-Dallas 1940, writ dismissed judgment cor.). Third, in *City of Corpus Christi v. Jones* the court relied upon the general contents of a newspaper in determining that it was a newspaper of general circulation. See *City of Corpus Christi*, 144 S.W.2d at 393. The court noted the following characteristics: “[I]t had a circulation of about 4000 in a city of about 45,000 population; . . . about 1200 copies were delivered to paid subscribers, and although it featured church and Corpus Christi news, it was not dedicated to any private enterprise. . . . The paper contained news items of general interest, editorials and advertisements.” *Id.*; cf. *Meyer v. Opperman*, 13 S.W. 174, 176 (Tex. 1890) (finding, in action on deed of trust, that Galveston Civilian may, as matter of law, be a newspaper sufficient for notice despite its limited circulation); *Hurt v. Cooper*, 63 Tex. 362, 367 (1885) (same).

\*4 We accordingly conclude that, to be a newspaper of general circulation, a newspaper must have more than a de minimis number of subscribers within a particular geographic region; must have a diverse subscribership; and must contain some news, editorials, and advertisements of a general character and interest to the community. See *Burak*, 229 N.W. at 228; *Moore v. Alaska*, 553 P.2d 8, 21 (Alaska 1976). Whether a particular newspaper is a newspaper of general circulation is a question of fact that cannot be determined in the opinion process. See, e.g., Tex. Att’y Gen. Op. Nos. JC-0032 (1999) at 4 (stating that question of fact is beyond purview of this office); JC-0027 (1999) at 3 (stating the questions of fact cannot be addressed in attorney general opinion); JC-0020 (1999) at 2 (stating that investigation and resolution of fact questions cannot be done in opinion process).

Section 2051.044 of the Government Code is relevant to determine whether a particular publication is a newspaper in which a governmental entity may publish notice. Section 2051.044 lists four criteria of a newspaper in which a notice must be published: The newspaper in which a notice is published must:

(1) devote not less than 25 percent of its total column lineage to general interest items;

- (2) be published at least once each week;
- (3) be entered as second-class postal matter in the county where published; and
- (4) have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.

Tex. Gov't Code Ann. § 2051.044(a) (Vernon 2000).

A brief received in connection with your request suggests that a newspaper that has obtained Periodical mailing privileges (f/k/a "second-class postal matter," see id. § 2051.044(a)(3); see also United States Postal Service, Domestic Mail Manual, Issue 55, reg. E211.1.0 (4/6/00) [hereinafter "Domestic Mail Manual"] ("Effective July 1, 1996, second-class mail was renamed Periodicals.")), and therefore satisfies [section 2051.044\(a\)\(3\) of the Government Code](#), should be presumed to be a newspaper of general circulation. See Brief from Don R. Richards, McWhorter, Cobb & Johnson, L.L.P., Attorneys at Law, on behalf of Texas Press Ass'n, to Honorable John Cornyn, Attorney General (Jan. 24, 2000) (on file with Opinion Committee) [hereinafter "TPA Brief"]. According to the TPA Brief, the holder of Periodical mailing privileges must produce a "general publication" that is "'published to disseminate information of a public character' or is otherwise devoted to matters of social public concern such as 'literature, the sciences, art or some special industry.'" Id. at 4 (quoting Domestic Mail Manual, supra, reg. E212.1.2). The TPA Brief asserts that the holder of Periodical mailing privileges also must devote at least twenty-five percent of the publication's overall content to noncommercial, "news-type matters of general public interest." Id.; cf. [Tex. Gov't Code Ann. § 2051.044\(a\)\(1\)](#) (Vernon 2000) (defining "newspaper" as publication that, among other things, devotes at least twenty-five percent of total column lineage to general interest items).

\*5 Even assuming that the TPA Brief properly characterizes United States Postal Service regulations, the holder of Periodical mailing privileges is not entitled to a presumption that the holder publishes a newspaper of general circulation. An analysis of whether a newspaper is one of general circulation requires not only an examination of the newspaper's content, but also a determination that the newspaper's subscribership is more than de minimis and is diverse. It does not appear that obtaining Periodical mailing privileges requires a consideration of these factors.

Nor is a newspaper, as defined in [section 2051.044 of the Government Code](#), necessarily a newspaper of general circulation. See [Tex. Gov't Code Ann. § 2051.044\(a\)](#) (Vernon 2000). Nothing in [section 2051.044\(a\)](#)'s definition requires an examination of the diversity of a newspaper's subscribership or a determination that the newspaper serves more than a minimal number of subscribers. Consequently, a newspaper, as defined in [section 2051.044\(a\)](#), is a newspaper of general circulation only if it has more than a de minimis number of subscribers and its subscribership is diverse.

Conversely, a newspaper of general circulation must be a newspaper for the purposes of [section 2051.044](#), in addition to having more than a de minimis number of subscribers and a diverse subscribership. To the extent a general or special law does not specify a contrary "manner of publication," [section 2051.044](#), as part of chapter 2051, subchapter C, governs the publication of a notice in a newspaper by a governmental entity. See id.

In response to your second question, whether there is an objective standard that may be used to determine whether a newspaper is one of general circulation, we conclude there is not. Whether a particular publication is a newspaper under [section 2051.044\(a\) of the Government Code](#) can be determined objectively by calculating the publication's percentage of general-interest material; by determining the number of times the publication is published each week; by ascertaining whether the publication has been approved for Periodical mailing privileges; and by considering whether it has been published regularly and continuously for at least twelve months prior to the publication of the governmental entity's notice. See id. The remaining components used to determine whether a particular newspaper is of general circulation, the proportion of subscribers compared to the general population and the diversity of the audience, cannot be determined by applying an objective standard. "There is . . . no fixed

number of readers or ratio of readers to the population necessary for a newspaper to be considered one of general circulation.” *Gannett Co. v. Delaware*, 1993 WL 19714, \* 4 (Del. Ch. 1993) (citing *Great S. Media, Inc.*, 284 S.W.2d at 467); see also *Ark. Atty Gen. Op. No. 90-134*, 1990 WL 358833, \* 3 (and cases cited therein) (summarizing cases determining de minimis distribution). Whether a newspaper has more than a “trifling” or “minimal” number of paid subscribers so that the notice may serve to notify the public, as it is supposed to do, is a question of fact to be determined by the public official or body that is required to cause the notice to be published. See *Tex. Atty Gen. LO-97-036*, at 3 n.3 (stating that determining whether particular consideration is “significant” or “de minimis” requires resolution of fact questions); *Va. Atty Gen. Op. No. 372 (1982)*, 1982 WL 175548, \* 2 (same); *Black's Law Dictionary* 443 (7th ed. 1999) (defining “de minimis”).

\*6 Whether a newspaper serves a diverse subscribership also requires a factual examination of whether the newspaper serves a “special or limited” audience, such as a “medical, literary, religious, scientific or legal journal,” see *Great S. Media, Inc.*, 284 S.E.2d at 464 (quoting *Lynn v. Allen*, 44 N.E. 646, 647 (Ind. 1896)), or whether it “circulates among all classes and is not confined to a particular class or calling in the community.” *Id.* (quoting *People v. South Dearborn Street Bldg. Corp.*, 24 N.E.2d 373, 374 (Ill. 1939)).

You next ask whether, in a county with a population of approximately 325,000, a weekly newspaper, as defined by section 2051.044 of the Government Code, with a subscriber base of approximately 200 is a newspaper of general circulation. “[I]t is not at all essential, to constitute a newspaper one of ‘general circulation’ . . . , that the newspaper be read by all the people of a county, township, or other community in which it circulates.” Dale Agthe, Annotation, What Constitutes Newspaper of “General Circulation” within Meaning of State Statutes Requiring Publication of Official Notices and the Like in Such Newspaper, 24 A.L.R. 4th 822, 826 (1983). Whether a particular newspaper has more than a de minimis number of subscribers within a county must be determined by the county commissioners court, the body that is to arrange for the publication of county notices. See *Va. Atty Gen. Op. No. 372*, 1982 WL 175548, at \* 2.

Fourth, you ask whether, “[i]n determining whether to award the contract for publication of legal notices to Newspaper ‘A,’” the governmental entity may “consider the circulation numbers of Newspaper ‘B,’ even though Newspaper ‘B’ would not in and of itself qualify for the award of the contract.” Newspaper A has paid subscribers, while its sister publication produced by the same press, Newspaper B, is distributed free of charge to homes and businesses within the county. See Request Letter, supra, at 1-2. A governmental entity may not include the circulation numbers of Newspaper B in determining whether Newspaper A is a newspaper of general circulation. The additional circulation may, however, be a factor in determining which bid is “the lowest and best.” See *Tex. Loc. Gov't Code Ann. § 262.027(a)(1)* (Vernon 1999) (directing county commissioners court normally to award contract to “responsible bidder who submits the lowest and best bid”); cf. *Tex. Atty Gen. Op. No. JM-881 (1988)* at 3 (explaining that county is not required to accept lowest bid, but “lowest and best” bid).

\*7 You ask fifth whether a commissioners court may set the minimum number of subscribers a newspaper must have in the bid specifications. A county may specify the characteristics of the goods or services it desires to purchase. See *Tex. Loc. Gov't Code Ann. § 262.025(b)(1)* (Vernon 1999); *Tex. Atty Gen. Op. No. JC-0124 (1999)* at 2. But specifications must be definitely and objectively related “to matters of quality and competence or . . . adopted” in accordance with clear legislative authority. See *Tex. Atty Gen. Op. No. DM-113 (1992)* at 7; see also *Texas Highway Comm'n v. Texas Ass'n of Steel Importers, Inc.*, 372 S.W.2d 525, 529 (Tex. 1963) (recognizing state agency's authority to specify quality of goods); *Tex. Atty Gen. Op. No. JC-0124 (1999)* at 2 (discussing *Texas Ass'n of Steel Importers, Inc.*); *Tex. Atty Gen. Op. No. JM-1215 (1990)* at 3 (same). While we believe an argument can be made that a specification regarding the minimum number of subscribers is related to the effectiveness of published public notices, whether a certain specification is in fact directly related to the quality of item to be purchased is a fact question. See *Tex. Atty Gen. Op. No. JM-1215 (1990)* at 4.

In answer to your sixth question, we conclude that a county commissioners court may not “base its lowest and best bid criteria on the cost per unit or subscriber rather than the price per column inch.” Request Letter, supra, at 2. Section 2051.045 of the Government Code sets the legal rate for publication of notice in a newspaper: “The legal rate for publication of a notice in

a newspaper is the newspaper's lowest published rate for classified advertising." *Tex. Gov't Code Ann. § 2051.045* (Vernon 2000). Consequently, a county must "base its lowest and best bid criteria" on the newspaper's lowest published rate for classified advertising. The statute does not specify that the rate must be articulated as a "price per column inch," but the statute does not permit the county commissioners court to require a newspaper to compete on a rate system other than that it normally uses.

Finally, you ask whether a county commissioners court may require in its bid specifications that the newspaper be one of general circulation, although "there are both special and general statutes, each requiring a different standard for publication." Request Letter, *supra*, at 2. You do not indicate what statutes you mean, nor have you provided any briefing. Consequently, we can offer only the most general advice.

A county may not publish notice in a newspaper of general circulation if such a newspaper would be inconsistent with the specific statute requiring the notice. See *Tex. Gov't Code Ann. § 311.026* (Vernon 1998) (stating that specific statute normally controls over inconsistent general statute). Publishing notice in a newspaper of general circulation may not, in certain circumstances, satisfy specific statutory requirements regarding the location of publication. *Section 202.043 of the Agriculture Code* requires the governing board of a wind erosion conservation district, the boundaries of which must be coextensive with county boundaries, to publish notice of an assessment hearing "in a newspaper of general circulation" that is published in the county. See *Tex. Agric. Code Ann. § 202.043(c)* (Vernon 1982); see *Christy v. Williams*, 292 S.W.2d 348, 352 (Tex. Civ. App.-Galveston 1956), writ *dism'd*, 298 S.W.2d 565 (Tex. 1957) (defining "published") (quoting *Tex. Atty Gen. Op. No. C-7286* (1946) at 3). Under such a statute, a wind erosion conservation district could not publish its notice only in a newspaper of general circulation that is not published within the county.

#### Summary

\*8 A newspaper of general circulation is a newspaper that has more than a de minimis number of subscribers among a particular geographic region, that has a diverse subscribership, and that publishes some items of general interest to the community. See also *Tex. Gov't Code Ann. § 2051.044(a)* (Vernon 2000) (defining "newspaper"). Whether a particular newspaper is generally circulated is a question of fact. In determining whether a particular newspaper is a newspaper of general circulation for the purposes of publishing official notices, a governmental entity may not combine the subscriber numbers of that newspaper with the circulation numbers of a separate newspaper that is sent out free of charge to nonsubscribers.

So long as the specification relates to the quality of the goods and services a county desires to purchase, the commissioners court may specify, in a request for bids, the minimum number of subscribers a newspaper bidding on a contract to publish county notices must have. A county must "base its lowest and best bid criteria" on the newspaper's lowest published rate for classified advertising. See *id.* § 2051.045. A county may not publish notice in a newspaper of general circulation if such a newspaper would be inconsistent with the specific statute requiring the notice.

Yours very truly,

John Cornyn  
Attorney General of Texas  
Andy Taylor  
First Assistant Attorney General  
Clark Kent Ervin  
Deputy Attorney General - General Counsel  
Elizabeth Robinson  
Chair  
Opinion Committee  
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Assistant Attorney General - Opinion Committee

Tex. Atty. Gen. Op. JC-0223 (Tex.A.G.), 2000 WL 659125

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(B) a political subdivision of the state, including a municipality, a county, or any kind of district.

(2) "Governmental representative" includes an officer, employee, or agent of a governmental entity.

(3) "Notice" means any matter, including a proclamation or advertisement, required or authorized by law to be published in a newspaper by a governmental entity or representative.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.042. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to the extent that the general or special law requiring or authorizing the publication of a notice in a newspaper by a governmental entity or representative does not specify the manner of the publication, including the number of times that the notice is required to be published and the period during which the notice is required to be published.

(b) This subchapter does not apply to the publication of a citation that relates to a civil suit and to which the Texas Rules of Civil Procedure apply.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.043. PUBLICATION IN AT LEAST ONE ISSUE REQUIRED. Except as provided by Section 2051.046(b) or 2051.048(d), a notice shall be published in at least one issue of a newspaper.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.044. TYPE OF NEWSPAPER REQUIRED. (a) The newspaper in which a notice is published must:

- (1) devote not less than 25 percent of its total column lineage to general interest items;
- (2) be published at least once each week;
- (3) be entered as second-class postal matter in the county where published; and
- (4) have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.

Sec. 262.024. DISCRETIONARY EXEMPTIONS. (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2) an item necessary to preserve or protect the public health or safety of the residents of the county;

(3) an item necessary because of unforeseen damage to public property;

(4) a personal or professional service;

(5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6) any land or right-of-way;

(7) an item that can be obtained from only one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

(C) electric power, gas, water, and other utility services; and

(D) captive replacement parts or components for equipment;

(8) an item of food;

(9) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10) any work performed under a contract for community

(b) A weekly newspaper has been published regularly and continuously under Subsection (a) if the newspaper omits not more than two issues in the 12-month period.

(c) This section does not apply to the publication of a notice to which Section 2051.0441 applies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 1130, Sec. 1, eff. June 20, 2003.

Sec. 2051.0441. TYPE OF NEWSPAPER REQUIRED FOR PUBLICATION IN CERTAIN COUNTIES. (a) This section applies only to a notice published by a governmental entity or representative in a county:

(1) with a population of at least 30,000 and not more than 36,000 that borders the Red River; or

(2) that does not have a newspaper described by Section 2051.044 published in the county.

(b) The newspaper in which a notice is published under this section must:

(1) devote not less than 20 percent of its total column lineage to general interest items;

(2) be published at least once each week;

(3) be entered as periodical postal matter in the county where published or have a mailed or delivered circulation of at least 51 percent of the residences in the county where published; and

(4) have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.

(c) A weekly newspaper has been published regularly and continuously under Subsection (b) if the newspaper omits not more than two issues in the 12-month period.

Added by Acts 2003, 78th Leg., ch. 1130, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 768, Sec. 1, eff. June 17, 2011.

[REDACTED]

## **TEX LG. CODE ANN. § 262.025 : Texas Statutes - Section 262.025: COMPETITIVE BIDDING NOTICE**

### **Search TEX LG. CODE ANN. § 262.025 : Texas Statutes - Section 262.025: COMPETITIVE BIDDING NOTICE**

(a) A notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the county, with the first day of publication occurring before the 14th day before the date of the bid opening. If there is no newspaper of general circulation in the county, the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening.

(b) The notice must include:

(1) the specifications describing the item to be purchased or a statement of where the specifications may be obtained;

(2) the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;

(3) whether the bidder should use lump-sum or unit pricing;

(4) the method of payment by the county; and

(5) the type of bond required by the bidder.

(c) If any part of the payment for a proposed purchase will be made through time warrants, the notice also must include a statement of the maximum amount of time warrant indebtedness, the rate of interest on the time warrants, and the maximum maturity date of the time warrants.

(d) In a county with a population of 3.3 million or more, the county and any district or authority created under Article XVI, Section 59, of the Texas Constitution of which the governing body is the commissioners court may require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1019, Sec. 1, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 78, eff. Sept. 1, 2001.

Code	Description	UOM
<b>915</b>	<b>COMMUNICATIONS AND MEDIA RELATED SERVICES</b>	<b>N/A</b>
<b>915-01</b>	Advertising Agency Services	N/A
<b>915-02</b>	Advertising (Including Notice of Bid Solicitation, Statutory Notices)	N/A
<b>915-03</b>	Advertising/Public Relations (Incl. Skywriting)	N/A
<b>915-04</b>	Advertising, Outdoor Billboard, etc.	N/A
<b>915-05</b>	Answering/Paging Services	N/A
<b>915-06</b>	Audio Production	N/A
<b>915-07</b>	Audio Recording	N/A
<b>915-08</b>	Audio Media Duplicating Services (Incl. Cassettes, CD ROMs, Tapes, etc.)	N/A
<b>915-09</b>	Audio/Video Production Services Complete	N/A
<b>915-11</b>	Background Music Services (Incl. Messaging on Hold, etc.)	N/A
<b>915-14</b>	Broadcasting Services, Radio	N/A
<b>915-15</b>	Broadcasting Services, Television	N/A
<b>915-20</b>	Call Center Services	N/A
<b>915-22</b>	Communications Marketing Services	N/A
<b>915-23</b>	Conference Coordinating and Planning Services	N/A
<b>915-24</b>	Cable Television Services (Includes Pay-Per-View Services)	N/A
<b>915-25</b>	Captioned Services for the Hearing Impaired (See 915-85 for Telecommunication Relay Services)	N/A
<b>915-26</b>	EDI (Electronic Data Interchange) Value Added Network (VAN) Services	N/A
<b>915-27</b>	Editorial Services	N/A
<b>915-28</b>	Electronic Information and Mailing Services	N/A
<b>915-30</b>	DVD Duplicating Services	N/A
<b>915-36</b>	Facsimile (Fax) Services	N/A
<b>915-38</b>	Film and Slide Processing, Duplicating and Touch Up Services	N/A
<b>915-42</b>	Film and Slide/Tape Production Services	N/A
<b>915-44</b>	Fulfillment (Includes. Data Processing, Packaging, Labeling and Mailing of Literature as a Package)	N/A
<b>915-45</b>	Fulfillment, Inventory, and Storage Services	N/A
<b>915-48</b>	Graphic Arts Services (Not Printing)	N/A
<b>915-49</b>	High Volume, Telephone Call Answering Services (See 915-05 for Low Volume Services)	N/A
<b>915-51</b>	Information Highway Electronic Services (Internet, World Wide Web, Virtual Tours to Include Construction Renderings, etc.)	N/A
<b>915-52</b>	Journalistic Services (Includes Page Print Services)	N/A
<b>915-57</b>	Mailing/Postage and Shipping Services, Electronic	N/A
<b>915-58</b>	Mailing Services (Includes, Addressing, Collating, Packaging, Sorting and Delivery)	N/A

<b>915-59</b>	<b>Mail Services, Express</b>	<b>N/A</b>
<b>915-60</b>	<b>Magazine Distribution Services</b>	<b>N/A</b>
<b>915-64</b>	<b>Media Clippings, Outtakes, Critiques, Summaries, Legislative Bill Tracking Services, etc. (Incl. State, Local, Out-of-State and International)</b>	<b>N/A</b>
<b>915-65</b>	<b>Photographs, Includes Reprinting and Usage</b>	<b>N/A</b>
<b>915-67</b>	<b>Monitoring Services, Critical Equipment and Site, Wireless, Web-based</b>	<b>N/A</b>
<b>915-68</b>	<b>Microfiche/Microfilming Services</b>	<b>N/A</b>
<b>915-69</b>	<b>Motion Picture Production and Distribution Services</b>	<b>N/A</b>
<b>915-70</b>	<b>Monitoring Services: Parolee, Patient, Convict, etc.</b>	<b>N/A</b>
<b>915-71</b>	<b>Newspaper and Publication Advertising</b>	<b>N/A</b>
<b>915-72</b>	<b>Photography (Not Including Aerial Photography)</b>	<b>N/A</b>
<b>915-73</b>	<b>Public Information Services (Incl. Press Releases)</b>	<b>N/A</b>
<b>915-74</b>	<b>Radio Commercial Production</b>	<b>N/A</b>
<b>915-75</b>	<b>Telephone Services, Cellular</b>	<b>N/A</b>
<b>915-76</b>	<b>Telephone Services Includes Installation, Moves, Changes, Adds, Programming, Removal, Training, etc. (To Include Pay Telephones)</b>	<b>N/A</b>
<b>915-77</b>	<b>Telephone Services, Long Distance and Local (Including 800, Telex, Watts Services, and Offender Telephone Systems)</b>	<b>N/A</b>
<b>915-78</b>	<b>Television Commercial Production</b>	<b>N/A</b>
<b>915-79</b>	<b>Telecommunication Services (Not Otherwise Classified)</b>	<b>N/A</b>
<b>915-80</b>	<b>Typing and Word Processing</b>	<b>N/A</b>
<b>915-81</b>	<b>Telegram/Telegraph Services</b>	<b>N/A</b>
<b>915-82</b>	<b>Video Production</b>	<b>N/A</b>
<b>915-83</b>	<b>Television Services, Satellite</b>	<b>N/A</b>
<b>915-84</b>	<b>Video Recording</b>	<b>N/A</b>
<b>915-85</b>	<b>Telecommunication Relay Services (Text Telephone (TTY); Text-To-Voice; Voice Carry Over (VCO); Hearing Carry Over (HCO); Speech-To-Speech Relay; Video Relay; Spanish Relay; 7-1-1 Access to TRS</b>	<b>N/A</b>
<b>915-90</b>	<b>Video Media Duplicating and Production Services (Including CD ROMs, Tapes, etc.)</b>	<b>N/A</b>
<b>915-93</b>	<b>Voice Mail Services</b>	<b>N/A</b>
<b>915-95</b>	<b>Warning System Services, Citizen</b>	<b>N/A</b>
<b>915-96</b>	<b>Web Page Design, Management and Maintenance Services</b>	<b>N/A</b>
<b>915-97</b>	<b>Wiring Services, Data/Voice</b>	